

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**



***PRO SE* LITIGANT
GUIDE**

June 1, 2005

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PLEASE NOTE THAT ALL FORMS REFERENCED IN THIS GUIDE ARE
AVAILABLE UPON REQUEST TO THE CLERK'S OFFICE

I. INTRODUCTION

A. PURPOSE OF THIS GUIDE

This guide has been compiled to assist a person who will be appearing *pro se* (without an attorney) to file and pursue a civil case in this court. It is by no means comprehensive and is only intended to help the *pro se* litigant in understanding the way a case progresses, the procedures required by the court, and the responsibilities involved in pursuing a case in this court. This guide is also intended to assist *pro se* litigants to understand basic legal terms used in civil cases. See Appendix A, Glossary of Terms.

This guide references numerous documents that you may need to file in a case. All of the referenced documents are available in the clerk's office upon request and should be available in the libraries of all New Hampshire correctional facilities. Whenever a form is not available, a pleading may be submitted in a format substantially conforming to the appropriate form and Local Rule 5.1. See Local Rule 4.3(c).

This guide will not answer all your questions about what you need to do to represent yourself effectively as a *pro se* litigant. It outlines the basic steps necessary to file an action, or lawsuit, in this court. It also provides some general guidance on the next steps in the process of litigating an action once you have filed it. You are responsible, however, to understand and follow the procedures that govern court processes. This guide does not take the place of, or relieve a *pro se* litigant of the responsibility for complying with, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Rules for the United States District Court for the District of New Hampshire, or any other obligations imposed by the law. *Pro se* litigants, like attorneys who practice before this court, are required to comply with all applicable rules and laws.

B. ROLE OF COURT PERSONNEL IN A *PRO SE* CASE

The clerk's office is open from 8:30 a.m. to 4:30 p.m. each business day. Although the staff of the clerk's office can provide *pro se* litigants with general information concerning court rules and procedures, they are forbidden as a matter of law from providing legal advice, interpreting and applying court rules, recommending a course of action, predicting a decision a judicial officer might make on any given matter, or interpreting the meaning or effect of any court order or judgment. Similarly, the judges of this court cannot give you legal advice.

You are prohibited from all private or *ex parte* communication with the judge to whom your case is assigned. *Ex parte* communication occurs when one of the parties to a lawsuit, or when that party's attorney, exchanges information relevant to the case with the judge without the opposing party being present or without the knowledge and consent of the opposing party. Because of this prohibition, a judge will refuse, with very few legally recognized exceptions, to speak or otherwise communicate *ex parte* with any party,

or that party's attorney, regarding a pending case. Any communication between the assigned judge and a litigant must be in writing, and a copy of the communication must be sent either to the opposing party or that party's counsel, or must be made in person in the presence of all parties to the action.

C. ACCESS TO APPLICABLE FEDERAL LAWS AND PROCEDURES AND THIS COURT'S LOCAL RULES OF PROCEDURE

As a *pro se* litigant, you must be familiar with the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and this court's local rules. These rules set forth the general procedural requirements for litigating cases in all federal courts and are available for review in the clerk's office main lobby. They are also available on the internet by clicking on "Rules" at the court's website at www.nhd.uscourts.gov. The local rules of this court are available for purchase at the clerk's office for \$4.50 for a book version. Federal laws can be found in the United States Code (abbreviated as "U.S.C.").

The court's website also contains frequently asked questions, general information, and other useful reference links.

Many public libraries have computers with internet services that are available to the public for reviewing these publications in the event that you do not otherwise have access to these resources. For incarcerated *pro se* litigants, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the local rules of this court should be available in the library of all New Hampshire correctional institutions.

D. CAUTIONARY NOTE

Self-representation carries certain responsibilities and risks that *pro se* litigants should be aware of before they proceed. Individuals who are considering representing themselves are encouraged to carefully review the risks associated with self-representation and to educate themselves regarding potential consequences.

Rule 11 of the Federal Rules of Civil Procedure prohibits filing lawsuits that are clearly frivolous or filed merely for purposes of harassment. If after reviewing your complaint the court determines that you have filed a lawsuit for an improper or clearly unnecessary purpose, it may impose sanctions against you, including ordering you to pay a fine to the court or to pay the legal fees of the person against whom you filed the lawsuit. In certain types of cases, if you lose you may be required to pay the legal fees of the winning party. In all cases, if you lose you may be required to pay some of the costs the winning party incurred in the course of the lawsuit.

E. REQUIREMENTS AND RESPONSIBILITIES OF THE *PRO SE* LITIGANT

The following list of responsibilities imposed on *pro se* litigants pursuing a civil case before this court is not intended to be exhaustive and only provides a few examples of the manner in which *pro se* litigants are expected to conduct themselves when pursuing an action in this court:

- 1. You are required to diligently prosecute your lawsuit. Unless and until you obtain an attorney to represent you, it is your responsibility to do everything necessary to prepare your case for trial. This includes, but is not limited to, responding to discovery requests and motions. It is also your responsibility to try your case in court.**
- 2. Do not expect any correspondence or orders from the court instructing you regarding procedures for pursuing your lawsuit. If you fail to follow established procedures, your case may be subject to dismissal for failure to properly and diligently pursue your case.**
- 3. You are required to serve the defendant's attorney (or the defendant, if the defendant is also appearing *pro se*) with copies of all pleadings and motions filed with the court. Likewise, the defendant or the defendant's attorney is required to serve you with copies of all pleadings and motions filed on behalf of the defendant.**
- 4. You must keep the court and the defendant advised of any change in your address or telephone number. Failing to do so immediately may result in the imposition of sanctions, which may include the dismissal of your case.**
- 5. You should retain a copy of all documents submitted to the court for your records.**

F. ALTERNATIVES TO PROCEEDING *PRO SE*

Most people who file and pursue litigation in this court employ an attorney, admitted to both the New Hampshire Bar and the bar of this court, who practices law, has appeared in court, and is familiar with the rules of procedure that govern court processes. Some attorneys may be willing to accept a reduced fee or lenient fee payment schedule. Other attorneys may be willing to accept your case on a contingent fee basis, which means the attorney would receive a fee based upon a percentage of your recovery if you win your case and would receive nothing if you do not prevail. Finally, in some limited circumstances the other side may be required to pay your attorney's fees if you win your case.

If you would prefer to have an attorney represent you but you are unable to retain one, you may want to consider contacting the following services which, in some cases, can provide free or low cost legal assistance:

New Hampshire Bar Association Lawyer Referral Service
(603) 229-0002
email: lsreferral@nhbar.org

Legal Advice and Referral Center
(800) 639-5290 or (603) 224-3333

New Hampshire Legal Assistance
(800) 562-3174

Disabilities Rights Center Inc. (for disability-related cases)
(800) 834-1721

G. WHO YOU MAY REPRESENT AS A *PRO SE* LITIGANT

If you do not want an attorney or are unable to find an attorney to represent you, you have the right to pursue your claims in court by appearing *pro se*. As a *pro se* litigant, you are representing only yourself and presenting only your claims and defenses. Under the law, you cannot speak for another person or other entity such as a company, club, or association. You may not represent a class of people in a class action lawsuit. See Local Rule 83.2(d) & 83.6(b). A *pro se* litigant may not authorize another person who is not a member of the bar of this court to appear for them. This includes a spouse, relative, or any other party on the same side who is not represented by an attorney. This means that each *pro se* litigant must personally sign the complaint and all additional pleadings they file with the court. Each *pro se* litigant must also personally appear in court when ordered to do so for conferences, hearings, trials, or other matters.

H. ELECTRONIC CASE FILING INFORMATION

Commencing with civil cases filed after June 1, 2004, the court has the capacity to accepted pleadings filed electronically through the Internet. A non-prisoner who is a party to a civil action and who is not represented by an attorney may file a motion to obtain an Electronic Case Filing (ECF) login and password on a form prescribed by the clerk's office. Only after the court has granted such a motion may a *pro se* party attempt to register for ECF. Prior to making application, you should confirm that you have the systems needed to file and receive electronic documents. A form for making application to obtain a login and password for ECF is available in the clerk's office.

II. INITIATING A LAWSUIT

A. JURISDICTION

The United States District Court for the District of New Hampshire is a federal trial court. Federal courts only have jurisdiction, or legal authority, to hear certain types of cases. As is the case in all federal trial courts, this court is generally authorized only to hear disputes that fall into the following four categories:

- 1. Those that deal with a question involving the United States Constitution;**
- 2. Those that involve questions of federal law (as opposed to state law, unless there is a state law claim substantially related to a federal claim being made, in which case it may be presented to this court for possible consideration);**
- 3. Those that involve the United States as a party, whether as a plaintiff or defendant; and**
- 4. Those that involve a dispute among residents of different states with an amount in controversy exceeding \$75,000.**

If your complaint does not fall under any of these categories, you should not file it in this court.

B. WHAT TO FILE

1. Complaint

The complaint is the document that a plaintiff files with the Clerk of Court to initiate a lawsuit. Only the original is filed with the court. See D, Sample Complaint Format; Appendix E, Instructions & Sample Complaint Form (Person in Custody). All complaints should contain:

- a. A caption or heading specifying the court in which the suit is brought and the names of the parties;**
- b. A title, simply “Complaint” or, if a jury trial is requested, the demand should be made immediately following the title to read “Complaint with Jury Demand”;**
- c. A numbered paragraph (or paragraphs if there is more than one plaintiff) containing the name and address of (each) plaintiff;**

- d. A numbered paragraph (or paragraphs if there is more than one defendant) containing the name and address of (each) defendant;
- e. A numbered paragraph stating why the court has jurisdiction, or legal authority, to hear this case;
- f. A numbered paragraph (or paragraphs) containing a statement of the facts that are alleged to have caused the damage claimed. These allegations, or claims, should be concise and clearly written. There should be a separate numbered paragraph for each factual allegation made. The statement of facts should include a description of what the defendant(s) did or failed to do and how those acts or omissions caused injury or damage, as well as a description of any injury sustained and what medical treatment, if any, was required. It is important to be as specific as possible in stating the facts. Names, dates, and events should be described accurately and as succinctly as possible. Failure to allege facts demonstrating that each defendant was personally involved in and/or responsible for the alleged incident or harm may result in dismissal of that defendant or the case;
- g. A closing or final paragraph, which is not numbered (note: this is the only paragraph in the complaint that is not numbered), outlining the relief being asked of the court. This can be money or something the plaintiff wants the court to do to correct the situation (or both); and
- h. The plaintiff's original signature over the plaintiff's printed/typed name (followed by the words "*pro se*"), address, and phone number. If there is more than one plaintiff, the complaint must contain an original signature for each plaintiff.

2. Filing Fee or *In Forma Pauperis* Application

a. Filing Fee

A \$250 filing fee is required when filing a complaint. A credit card charge, money order, cashier's check, or cash are acceptable forms of payment. Cashier's checks and money orders should be made payable to "Clerk, U.S. District Court." A personal check is not an acceptable form of payment.

b. *In Forma Pauperis* in Non-Prisoner Cases

If you cannot afford to pay the \$250 filing fee, a request to waive the \$250 filing fee can be made by filing, along with the complaint, a Motion/Affidavit to Proceed *In Forma Pauperis* Without Prepayment of Fees (available in the clerk's office). The motion will be submitted to the magistrate judge for approval. If the motion is denied, an appeal of the ruling to a district judge must be filed or the

filing fee must be paid. If the motion to proceed *in forma pauperis* is granted, the filing fee will be waived. The plaintiff remains responsible, however, for all other costs associated with the litigation unless an application for an additional waiver is made by motion and granted by a judicial officer of this court. See Appendix C, Filing Requirements.

c. *In Forma Pauperis* in Prisoner Cases

Pursuant to federal law, when a prisoner files a civil rights or other civil case, the plaintiff shall be assessed a filing fee of \$250. If unable to pay the fee, the plaintiff must file a Motion/Affidavit to Proceed *In Forma Pauperis*, a Financial Declaration Form and Certificate of Custodial Institution Form (all forms available in the clerk's office). The motion will be submitted to the magistrate judge for consideration. If the magistrate judge grants the motion, an initial partial filing fee will be assessed and a date for payment of the initial fee will be set. No action will be taken on the complaint until the initial filing fee is paid unless an emergency situation exists. A prisoner who pays the initial filing fee consents to future deductions or periodic payments from their personal inmate trust account thereafter until the filing fee is paid in full. If the magistrate judge denies the prisoner's application, the filing fee must be paid or an appeal may be taken to a district judge. If the motion is granted, the plaintiff is still responsible for all other costs associated with the litigation, unless an application for additional waiver is made by motion and granted by a judicial officer. See Appendix C, Filing Requirements.

The plaintiff is liable for the full filing fee regardless of the outcome of the case. Therefore, once the initial payment toward the filing fee is made, if the complaint is dismissed for any reason prior to collection of the full filing fee, the court will continue to collect money from the prisoner's trust account as ordered until the entire filing fee is paid. If the initial filing fee is not paid, the action will be dismissed without prejudice and the filing fee will not be collected.

The filing fee for a habeas corpus petition is \$5.00. If a request for in forma pauperis status is granted in a habeas case, the petitioner will not be required to pay any portion of the fee. If the request is denied, the petitioner must pay the fee in one payment and not in installments.

3. Summonses

All plaintiffs, whether or not they have paid the filing fee or intend to proceed *in forma pauperis*, must complete and submit a summons form (except for the date and signature line) for each defendant at the same time the complaint is filed. See Local Rule 4.1. Summons forms are available at the clerk's office. See Appendix F, Sample Summons Form. The plaintiff must provide the most complete known name and

address for each defendant. It is the plaintiff's responsibility to determine the identity of all defendants against whom relief is sought. If any summons form is missing for any defendant, the plaintiff will be directed to fill out a summons form and submit it to the clerk's office. Failure to comply with that request may result in dismissal of a particular defendant from the action or of the entire case.

4. What to File in 28 U.S.C. § 2254 Cases (Habeas Corpus Petitions Filed by a Person in State Custody)

- a. An original and two copies of a Petition for a Writ of Habeas Corpus Form (available in the clerk's office); and
- b. A filing fee in the amount of \$5; or
- c. A Motion/Affidavit to Proceed *In Forma Pauperis*, a Financial Declaration Form, and a Certificate of Custodial Institution Form (all available in the clerk's office).

5. What to File in 28 U.S.C. § 2255 Cases (Motions to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody)

- a. An original and two copies of a Motion to Vacate, Set Aside, or Correct Sentence Form (available in the clerk's office); and
- b. Although there is no filing fee required for this motion, if the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type are not available, you must submit a Motion/Affidavit to Proceed *In Forma Pauperis*, a Financial Declaration Form, and a Certificate of Custodial Institution Form (all available in the clerk's office).

6. What to File in Prisoner Civil Rights Cases (42 U.S.C. § 1983)

- a. An original and two copies of a Complaint Under the Civil Rights Act form, See Appendix E, Instructions & Sample Complaint Form (Person in Custody); and
- b. A filing fee in the amount of \$250; or
- c. A Motion/Affidavit to Proceed *In Forma Pauperis*, a Financial Declaration Form, and a Certificate of Custodial Institution Form (all available in the clerk's office).

C. FILING REQUIREMENTS - FORMAT OF FILINGS

The terms "filings" or "pleadings" refer generally to all documents filed with the court. Filings must be on 8 ½ x 11 inch paper of good quality. They should have no less

than one inch margins, be consecutively numbered in the bottom center of each page, and be double-spaced. Filings must be stapled or otherwise attached but shall not be permanently bound unless they exceed fifty (50) pages. All affidavits shall identify the filing they support or oppose by indicating the filing's title. See Local Rule 5.1.

Although it is preferable that pleadings be typewritten (in a font size no smaller than ten characters per inch or, if a proportionately spaced font is used, no less than twelve point), handwritten documents are acceptable. So the court may fully understand the claims, however, care should be taken with handwritten documents to ensure that they are legible. In the case of prisoners, a pleading will not be rejected for failure to conform to the exact requirements outlined here, but all reasonable efforts should be made to comply with the format required by court rules.

All filings must:

1. Contain the caption of the case, including the name of the court, the parties, and the complete civil action number assigned to the case (once assigned);
2. Contain a title describing the contents of the filing;
3. Identify the party on whose behalf the filings are made;
4. Include the plaintiff's address and telephone number (if any);
5. Contain the original signature of each plaintiff, with the words "*pro se*" following the signature; and
6. Contain a certificate of service (for filings other than the original complaint or petition). Pursuant to Federal Rule of Civil Procedure 5(a), every pleading, correspondence or other document filed after the original complaint, unless it is being filed *ex parte* (without the knowledge or notice to the opposing party), must be served upon each of the parties who have appeared in the case. Each such pleading must contain a certificate of service that states the name and address of the attorney or party served, the manner of service, and the date of service. This lets the court know that the other parties have been served with a copy of the same document filed with the court. An example of a certificate of service is:

I certify that a copy of the foregoing (name of the pleading/document) was mailed/hand delivered to (name of defendant(s) or counsel for the defendant(s)) at (address(es)) on (date).

Original signature, *pro se*

Typed name, address and phone number

D. WHERE TO FILE

The complaint, filing fee or *in forma pauperis* motion (and any supporting material), should be filed with the clerk's office at the following address:

Office of the Clerk of Court
United States District Court for the District of New Hampshire
Warren B. Rudman United States Courthouse
55 Pleasant Street - Room 110
Concord, New Hampshire 03301-3941

The documents may be mailed or delivered in person. There is also a 24-hour depository located at the south entrance of the Cleveland Building. If you utilize the 24-hour depository, be sure to stamp the pleading, not just the envelope, with the date/time stamp. Pleadings left in the 24-hour depository are retrieved once daily, between 7:30 a.m. and 8:00 a.m. No filings or letters should ever be mailed directly to the judge unless a litigant is specifically ordered to do so.

Upon filing, all civil cases will be assigned at random to one of the judges of this court. Assignments are made randomly so that no party or lawyer may choose the judge to whom the case is assigned. If the case is initially assigned to a district court judge, the parties can agree to reassign the case to a magistrate judge by filing a Notice, Consent, and Order of Reference Form (available in the clerk's office) stating that all the parties consent to the reassignment. See Federal Rule of Civil Procedure 73(b); Local Rule 73.1(b). Such a reassignment to the magistrate judge also may be initiated by the court in assigning cases randomly, but all parties must consent to this as well. If the case is initially assigned to the magistrate judge by the court, any party may object to the assignment by filing an objection within twenty (20) days after receiving notice of the assignment. Except as otherwise provided by law, failing to file an objection to the assignment of a case to the magistrate judge by the court will constitute a waiver of the party's right to object to the assignment. See Local Rule 73.1(b)(2).

III. PRELIMINARY REVIEW OF *PRO SE* COMPLAINTS AND PETITIONS

A. NON-PRISONER *PRO SE* COMPLAINTS – FILING FEE PAID

When a non-prisoner plaintiff files a *pro se* complaint, pays the filing fee, and the summons issues, the clerk's office will forward the complaint and other initial filings to the magistrate judge for a preliminary review to determine whether the court has jurisdiction over the subject matter of the complaint. If the magistrate judge determines that the court lacks such jurisdiction, the magistrate judge either shall issue a report and recommendation directing that the complaint be dismissed or shall grant the plaintiff leave to file amended pleadings. See Local Rule 4.3(d)(1)(A).

B. NON-PRISONER *PRO SE* COMPLAINTS – *IN FORMA PAUPERIS*

When a non-prisoner plaintiff files a *pro se* complaint and is granted *in forma pauperis* status, the clerk's office will forward the complaint and other initial filings to the magistrate judge for preliminary review. After such review, the magistrate judge will either:

1. Issue a report and recommendation finding that all or part of the complaint be dismissed because:
 - a. The allegation of poverty is untrue;
 - b. The action is frivolous or malicious;
 - c. The action fails to state a claim upon which relief may be granted;
 - d. The action seeks monetary relief against a defendant who is immune from such relief;
 - e. The complaint fails to establish the subject matter jurisdiction of this court; or
2. Grant the plaintiff leave to file an amended pleading in accordance with the magistrate judge's directives; or
3. Direct that the complaint, or claims alleged therein, be served on one or more of the defendants named to the action. The magistrate judge may appoint a person to effect service on behalf of an *in forma pauperis pro se* plaintiff pursuant to Federal Rule of Civil Procedure 4(c)(2).

See Local Rule 4.3(d)(1)(B).

C. PRISONER COMPLAINTS

When an incarcerated plaintiff files a *pro se* complaint, regardless of whether that person has paid the filing fee in full or is granted *in forma pauperis* status and pays the initial partial filing fee, the clerk's office will forward the complaint and other initial filings and amendments to those filings to the magistrate judge for preliminary review. After such review, the magistrate judge will either:

1. Issue a report and recommendation finding that all or part of the complaint be dismissed because:
 - a. The allegation of poverty is untrue;

- b. The action is frivolous or malicious;
 - c. The action fails to state a claim upon which relief may be granted;
 - d. The action seeks monetary relief against a defendant who is immune from such relief;
 - e. The complaint fails to establish the subject matter jurisdiction of this court; or
2. Grant the plaintiff leave to file an amended pleading in accordance with the magistrate judge's directives; or
3. Direct that the complaint, or claims alleged therein, be served on one or more of the defendants named to the action. If the magistrate judge finds that any complaint or claim alleged therein should be served on one or more defendant to the action, the magistrate judge will:
- a. Appoint a person to effect service if the incarcerated plaintiff is proceeding *in forma pauperis*; or
 - b. Pursuant to Federal Rule of Civil Procedure 4(b), order the clerk's office to issue the summons(es) against the defendant(s) if the inmate paid the filing fee, in which event the action shall proceed as all other actions; or
 - c. Direct that service be effected in some other manner in compliance with the law and the rules and practice of this court.

See Local Rule 4.3(d)(1)(B).

D. HABEAS CORPUS PETITIONS UNDER 28 U.S.C. § 2254

Pursuant to Rule 4 of the Rules Governing Habeas Corpus Cases Under § 2254, upon filing of a petition pursuant to 28 U.S.C. § 2254, the case will be forwarded to a judge for preliminary review to determine whether the petitioner has sufficiently stated a claim upon which relief may be granted. If a magistrate judge finds that the claims made on the face of the petition do not entitle the petitioner to relief, he will issue a report and recommendation to the district judge that the petition be dismissed. Otherwise, the magistrate or district judge will order that the petition be answered by the respondent or will take other action as appropriate, such as directing that the petition be amended.

E. 28 U.S.C. § 2255 MOTIONS

Pursuant to Rule 4 of the Rules Governing § 2255 Proceedings, upon filing of a motion pursuant to 28 U.S.C. § 2255, the case will be forwarded to a district judge for

preliminary review to determine whether the petitioner has sufficiently stated a claim upon which relief may be granted. If the district judge finds that the claims made on the face of the petition do not entitle the petitioner to relief, the motion will be dismissed. Otherwise, the district judge will order that the motion be answered by the United States Attorney or will take other action as appropriate.

IV. SERVICE

A. FILING FEE PAID – NONINCARCERATED PLAINTIFFS

If a *pro se* plaintiff pays the filing fee at the time the complaint is filed, the clerk's office will sign and seal the summons(es) against the defendant(s) and return the summons(es) to the plaintiff, who must serve a summons on each defendant to the action. The plaintiff is responsible for the timely movement of a case once it is filed. Service of the summons and complaint on the defendant(s) must be made within 120 days from the date of filing of the complaint, or as otherwise ordered, or the case will be subject to dismissal. Service must be conducted in accordance with Federal Rule of Civil Procedure 4 or the case can be dismissed for failure to effect proper service. Summons forms are available at the clerk's office. See Appendix F, Sample Summons Form. In cases in which the *pro se* nonincarcerated plaintiff has paid the filing fee, the complaint may be immediately served on the defendants. The magistrate judge's subsequent review of the complaint to determine whether it establishes the subject matter jurisdiction of the court will not affect the filing and answer deadlines in the case.

Rule 4 of the Federal Rules of Civil Procedure requires confirmation that the complaint has been served on the defendant(s). On the back of the summons is a section referred to as the return of service and, if not completed, renders service of process incomplete. The return of service must specifically identify the person who served the summons, the name(s) of the person(s) served, and the date(s) and time of service. Confirmation or proof that the documents have been served on the defendant(s) requires that the plaintiff return the original summons form with the completed return of service to the court and that a copy of both the summons form and the complaint be left with the defendant(s).

B. NONINCARCERATED PLAINTIFFS PROCEEDING *IN FORMA PAUPERIS* AND ALL INCARCERATED PLAINTIFFS EXCEPT THOSE PROCEEDING UNDER § 2254 AND § 2255

After conducting the preliminary review of the complaint, if the judge finds that the complaint states a claim upon which relief may be granted, the clerk's office will be ordered to issue summons(es) form(s) against the defendant(s). The judge will then, pursuant to Federal Rule of Civil Procedure 4(c)(2), appoint a person to make service – usually the Clerk of Court or the United States Marshals Office - who shall be responsible

for doing so. In appropriate cases, the magistrate judge may order an alternative means of achieving service in accordance with all applicable laws and rules.

C. SECTION 2254 PETITIONS AND § 2255 MOTIONS

After the filing of a petition or motion submitted pursuant to 28 U.S.C. § 2254 or 28 U.S.C. § 2255, the magistrate judge or a district judge will review the pleading to determine whether it sufficiently states a claim entitling the petitioner to relief. If the judge finds that it does, an order will issue directing that the motion or petition be served upon and answered by the respondent(s).

V. PROCEEDINGS AFTER SERVICE

A. ANSWER

1. Generally

A defendant's answer must state any defenses to the complaint and either admit or deny the specific allegations contained in the complaint. A defendant may choose to file a motion to dismiss the complaint instead of filing an answer. If a defendant fails to answer or otherwise defend the complaint in a timely fashion, the clerk may enter a default, which means that the plaintiff has prevailed on the claims made in the complaint.

2. Answer Deadlines

If service is made on the defendant(s) by summons, the defendant(s) will have twenty (20) days from the date of service of the complaint to file an answer with the court. If the United States or a federal official is a defendant, the answer deadline is sixty (60) days from the date of service.

When the magistrate judge has ordered service of a complaint after conducting a preliminary review pursuant to Local Rule 4.3(d)(1)(B) or 4.3(d)(2), or the magistrate or district judge has ordered an answer to a petition or motion filed pursuant to Rule 4 of the Rules Governing § 2254 Cases or Rule 4 of the Rules Governing § 2255 Cases, the order shall set an answer deadline.

B. MOTIONS

1. Generally

A motion is a type of pleading, filed by any party to a lawsuit, which requests that the court take certain action. Motions are the primary way to ask the court to take some action in a case.

A motion should be made in writing, state the specific reasons for the request made, and state what relief or order is being sought. Motions must be submitted separately from other filings and contain the word “motion” in the title. A motion must also contain a statement referencing an attached memorandum of law with citations to supporting authorities or a statement explaining why a memorandum is not necessary. Appendix G is a sample motion format which incorporates all the necessary elements of a motion. This format should be used to avoid possible striking (nonconsideration) of a motion because it fails to conform to filing requirements. All motions must be signed by the party submitting the motion and must contain a certificate of service indicating the date and manner in which the motion was served on the defendant(s). See Appendix C, Filing Requirements. The district judge or magistrate judge deciding the motion will ordinarily do so by written order without scheduling a hearing on the motion. Hearings are scheduled at the discretion of the court.

Motions will be referred to the district judge assigned to the case. Some motions may be referred by the district judge to the magistrate judge for consideration. When a dispositive motion is referred to the magistrate judge for consideration, the magistrate judge will issue a report and recommendation finding that the motion be either granted or denied and stating the reasons for the finding. The report and recommendation is forwarded to the district judge assigned to the case and copies are sent to the parties. As a party, you have ten (10) days to file any objections you have to the report and recommendation. All objections received within the specified time are forwarded to the district judge. The district judge reviews the report and recommendation and any objections that have been filed and will subsequently issue an order that adopts or rejects, in whole or in part, the magistrate judge’s report and recommendation. If the motion referred to the magistrate judge is nondispositive, the magistrate judge will issue an order granting or denying the motion, or directing other relief as appropriate.

Motions require a great deal of time and effort from the court. For this reason, motions should not be made frivolously and such filings could result in sanctions from the court.

2. Motion to Amend

A motion to amend shall: (1) identify any new factual allegations, claims, or parties, (2) explain why any new allegations, claims, or parties were not included in the original filing, and (3) include as an attachment an original of the proposed amended filing. The motion to amend must reproduce or contain the entire amended filing as it is impermissible to incorporate any prior filing by reference, except with the permission of the court. See Appendix C, Filing Requirements.

3. Motion to Dismiss

A motion to dismiss may be filed for any of the reasons set forth in Federal Rule of Civil Procedure 12(b). The motion to dismiss must state the specific facts and legal arguments supporting the stated reasons for dismissal. Such reasons commonly include the following: the court lacks jurisdiction to decide the subject matter of the case, service of process was not sufficient, or the complaint failed to state a claim that the law recognizes as enforceable.

4. Motion for Summary Judgment

A motion for summary judgment is filed by a party pursuant to Federal Rule of Civil Procedure 56 when there are undisputed issues of fact as to part or all of the case. The moving party must state that they are entitled to succeed on some or all of the issues in the case and state the reasons why they should succeed. If the court finds that there is no genuine issue of material fact as to one or more of the issues, that issue may be disposed of by the court's ruling on the motion.

A memorandum must be filed with a summary judgment motion that contains a short and concise statement of material facts and appropriate case law citations. All properly supported material facts set forth in the moving party's factual statement shall be deemed admitted unless properly opposed by the adverse party.

In opposing a motion for summary judgment, it is not enough for the responding party to merely deny the facts in the other party's motion. The responding party must present to the court evidence, such as depositions, answers to interrogatories, or documents, which show that the facts are in dispute.

5. Motion to Extend

A motion to extend any deadline shall state whether the extension would result in the continuance of any hearing, conference, or trial, and the motion shall state the proposed extended date. See Appendix C, Filing Requirements.

6. Motion for Reconsideration

A motion to reconsider an order of the court (other than a motion governed by Federal Rules of Civil Procedure 59 or 60) must be filed within ten (10) workdays from the date of the order in question.

7. Response Time

To determine the date that a response to a motion is due, refer to Appendix B, Time Computation Chart.

8. Appeal of an Order Entered by the Court While Case is Pending

Although most orders issued while a case is still ongoing cannot be appealed immediately, there are some exceptions to this general rule. The Federal Rules of Appellate Procedure explain when an order is appealable and you should consult those rules before filing a notice of appeal. If you file a notice of appeal, you will be required to pay a \$255 filing fee with this court unless you are permitted to proceed *in forma pauperis*. If you are permitted to proceed *in forma pauperis* on appeal, you may still be required to pay certain costs associated with your appeal. Filing a notice of appeal prematurely may delay final resolution of your case and may add unnecessary expense to your case.

C. OBJECTIONS

Objections to motions, like the motions themselves, must meet certain requirements. To assist you in the preparation of objections, Appendix H is a sample objection format that incorporates all the necessary elements of an objection. This format should be used when preparing objections. See also Appendix C, Filing Requirements.

Each objection must have attached thereto a memorandum of law with citations to supporting authorities or must contain a statement explaining why a memorandum is not necessary. A memorandum filed in opposition to a nondispositive motion shall not exceed fifteen (15) pages. A memorandum filed in opposition to a dispositive motion shall not exceed twenty-five (25) pages. See Appendix C, Filing Requirements.

D. REPLIES

A reply memorandum is allowable in response to an objection to a dispositive motion, but not in response to an objection to a nondispositive motion without the permission of the court, obtained prior to filing. No surreply (i.e. a reply to a reply) memorandum is permitted without prior leave of court. A reply memorandum shall not exceed ten (10) pages.

E. REDACTION OF PERSONAL IDENTIFIERS

Local Rule 8.1 requires that all parties refrain from including, or shall partially redact where inclusion is necessary, the following personal identifiers from all filings with the court: social security numbers, names of minor children, dates of birth; and financial account numbers.

F. DISCOVERY PLAN AND PRELIMINARY PRETRIAL

After the defendant has either answered the complaint or filed a dispositive motion, in most cases the court will schedule a preliminary pretrial conference. Pursuant to Federal Rule of Civil Procedure 26, at least twenty-one (21) days before the preliminary pretrial conference the parties must confer and develop a proposed discovery plan. Habeas corpus petitioners and incarcerated *pro se* litigants are exempt from this requirement. The plan must be filed with the court within fourteen (14) days prior to the conference. For more specific information regarding the contents of the discovery plan, see Civil Form 2 of the Local Rules. If the discovery plan is approved, the preliminary pretrial will be cancelled and the parties notified.

At the preliminary pretrial hearing, all participants should be prepared to discuss discovery issues such as expected interrogatories, requests for admission, depositions, use of experts, mediation and/or Alternative Dispute Resolution, a trial date, and other case-related issues as fully explained in Federal Rule of Civil Procedure 16(c). The district judge or magistrate judge will thereafter approve a discovery plan setting forth deadlines. The parties must adhere to those deadlines unless otherwise ordered by the court.

A trial date will be set within the discovery plan and a separate trial notice will be sent out. The notice will include the deadline for filing final pretrial statements as well as the dates for the final pretrial conference and trial.

G. DISCOVERY

1. Generally

Discovery is the process of collecting the evidence necessary to support a claim. Evidence may be gathered from the opposing party, from non-parties or from public records. The parties shall not file discovery materials with the court unless ordered to do so. Motions to the court regarding discovery disputes are governed by Federal Rule of Civil Procedure 37 and Local Rule 37.1.

2. Initial Disclosures

For nonincarcerated/non-habeas plaintiffs, Federal Rule of Civil Procedure 26(a) requires the disclosure of certain materials to the adverse party without a discovery request or separate court order. The specific materials and information to be disclosed, as well as the deadlines for disclosure, are contained in the rule and should be carefully reviewed. Failure to comply with discovery rules and orders in a case may result in the dismissal of an action and/or other sanctions.

3. Depositions

A deposition is a procedure in which testimony of any witness, whether or not a party, is taken under oath and recorded before the trial begins. The witness, called the deponent, is examined by the party who asked for the deposition, and then the adverse party may cross-examine. The rules and procedures governing depositions are located at Federal Rules of Civil Procedure 27 through 32.

4. Interrogatories

Up to twenty-five (25) written questions, called interrogatories, may be used to discover information from parties in the action. Permission from the court can be sought to request additional interrogatories. Each interrogatory shall be answered separately and fully, in writing, and under oath. If an interrogatory is objected to, the objecting party shall state the reasons for the objection and shall answer to the extent the interrogatory is not objectionable. The answers are to be signed by the person making them, and the objections signed by the attorney or *pro se* party making them. The interrogatories shall be answered within thirty (30) days after they are served. Parties are required to supplement their answers to interrogatories as additional information becomes available as provided by Federal Rule of Civil Procedure 26(e)(2). The rules and procedures governing interrogatories are located at Federal Rule of Civil Procedure 33.

5. Production of Documents

Pursuant to Federal Rule of Civil Procedure 34, a written request to produce records, letters, contracts, or other materials, inspect or copy a document, or permit entry upon designated land or other property in the possession or control of the party upon whom the request is served, may be served on any party. The request shall specify a reasonable time, place, and manner of making the inspection or performing the related acts. The party upon whom the request is served shall serve a written response within thirty (30) days. The response shall state whether the inspection or related activities will be permitted as requested. If the request is objected to, the reasons for the objection shall be stated. The requesting party may seek, by filing a motion to compel, a court order requiring production. A person not a party to the action may be compelled to produce documents or things as provided in Federal Rule of Civil Procedure 45.

6. Physical or Mental Examinations

Pursuant to Federal Rule of Civil Procedure 35, when the mental or physical condition of a party or of a person in the custody or under the legal control of a party is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination. The order may be made only on motion

for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person by whom it is to be made. A mental or physical examination may be conducted by any "suitably licensed or certified examiner." Generally, the party seeking such a report will incur the cost for the examination.

7. Requests for Admission

Pursuant to Federal Rule of Civil Procedure 36, a party may serve upon any other party a written request to admit the truth of certain matters within the scope of Federal Rule of Civil Procedure 26(b)(1). The matter is admitted unless, within thirty (30) days after service of the request, the party to whom the request is directed serves upon the requesting party a written answer or objection signed by the party. Failure to answer constitutes an admission. The party who requests the admission may file a motion with the court to determine the sufficiency of the answers or objections. The court may order an answer, amendments to answers given, or even that the matter be deemed admitted.

H. FINAL PRETRIAL STATEMENTS

Federal Rule of Civil Procedure 26(a)(3) and Local Rule 16.2 outline the information that is to be included in, and filings to accompany, a final pretrial statement. This document must be filed thirty (30) days before trial. Objections to final pretrial statements are governed by Local Rule 16.2(d).

I. FINAL PRETRIAL CONFERENCE

The final pretrial conference will be held approximately ten (10) days prior to trial. This conference, held with the trial judge and the parties, will provide an opportunity to discuss the following: issues that will be tried, admissibility of exhibits, pending motions, issues concerning jury selection, witnesses, possibility of settlement, length of trial, and any other relevant issues. The court may enter a final pretrial order outlining issues discussed.

J. TRIAL WITNESSES

No later than twenty (20) days before trial, parties authorized to proceed *in forma pauperis* must file a motion containing the name, address, and a brief statement of the expected testimony of each witness they would like to subpoena for trial. If the stated testimony of a witness is not material or is repetitive, the court may, in its discretion, decline to order the issuance of a subpoena for that witness. The court will prepare an order specifying what subpoenas may be issued. Parties proceeding *in forma pauperis* should refer to Local Rules 45.2.

K. TRIAL EXHIBITS AND EXHIBIT LIST

Trial exhibits and an exhibit list are to be filed in the clerk's office seven (7) days before trial begins. Detailed instructions for the marking of exhibits are available from the clerk's office or on the court's web site at www.nhd.uscourts.gov.

L. JUROR QUESTIONNAIRES

The clerk's office will maintain and make available a complete listing of jurors who will be in attendance the day of jury selection as well as a questionnaire for each juror. The questionnaire is a document provided by the clerk's office, and completed by each juror, that asks for certain personal information. Five (5) working days prior to the first jury selection date of each trial period, the list and questionnaires will be made available only to attorneys, their agents, and pro se parties actually involved in cases scheduled for trial during that period. The questionnaires may not be photocopied or removed from the clerk's office and the information in the questionnaires may not be disclosed.

VI. TRIAL

A trial is the examination of evidence and applicable law by a judge or a jury who then decide what facts to accept, apply the law to those facts, and determine the result in the case. At a trial, the plaintiff attempts to prove the claims in support of the relief requested, and the opposing party attempts to prove the opposite. Each party will have the opportunity to present their side of the case. At the conclusion of the evidence, if the case was tried before a jury, the jury will render its verdict. If there was no jury and a bench trial was held, the judge will render a decision. Often, a decision rendered by a judge will be issued at a future date in the form of a written order. Of course, at any time before trial, if the matter is disposed of by motion, settlement, or otherwise, no trial will be necessary. Local Rule 39.1 sets forth guidelines for the length and limits of trial, conduct of counsel/*pro se* litigants in the courtroom, and many of the topics discussed below.

A. JURY SELECTION

A jury trial begins with the judge giving a brief outline of what the case is about, reading witness lists, introducing counsel and the parties, and conducting the voir dire (a preliminary examination concerning the eligibility of a prospective juror to serve on the jury). The courtroom clerk will then randomly select jurors. After each selection, the judge will ask the juror if there are any concerns with or responses to any of the questions asked. If so, the judge will question the juror individually at the bench in the presence of counsel and any *pro se* litigant. After the court has completed its examination, challenges to a prospective juror for cause may be made at the bench. A challenge for cause may be allowed if the prospective juror lacks a qualification required by law or

cannot be fair and impartial in deciding the case. This process will continue until the appropriate number of jurors have been selected for the panel.

The parties will then exercise their peremptory challenges (limited to three per side) at the clerk's bench out of the hearing of prospective jurors. Peremptory challenges are requests by a party that a certain prospective juror not sit on the panel and, unlike challenges for cause, no reason need be stated to support the challenge. Jurors who are the subject of a peremptory challenge shall be excused. The remaining jurors shall comprise the trial panel, will hear the evidence, and will render their verdict at the conclusion of the case. The court shall seat a jury of not fewer than six persons and all jurors shall participate in the verdict.

B. VIEW AND PRE-VIEW STATEMENTS

A view to a location relevant to the case may be taken if the judge finds that such a view will be helpful to the judge or jury in understanding the evidence presented. A view must be specially requested in the final pretrial statement. The court will determine at the final pretrial whether a view will be allowed. If a view is permitted in a jury trial, each party will have the opportunity to make brief, nonargumentative statements to the jury to alert them to particular points of interest they may see at the view.

C. OPENING STATEMENTS

The purpose of an opening statement is to describe the issues in the case and the facts a party intends to prove in support of the claims made or defenses raised. The plaintiff's statement is presented first, as that party has the burden of proving the facts supporting the allegations and that the defendant was responsible for the injury or damage alleged. Opening statements shall be nonargumentative and no longer than thirty (30) minutes unless otherwise ordered.

D. PRESENTATION OF EVIDENCE

The actual presentation of evidence occurs after the opening statements have been completed and consists of witness testimony and exhibits.

1. Witness Testimony

Not all witness testimony is admissible in a trial. It is important that the *pro se* litigant be very familiar with those portions of the Federal Rules of Evidence which relate to the admissibility of witness testimony prior to attempting to introduce such evidence at trial.

a. Direct Examination

When an attorney or *pro se* litigant calls a person to the witness stand and asks questions, it is called direct examination. The plaintiff is first in presenting witnesses.

b. Cross-Examination

When the other side attempts to discredit the testimony given by a witness after the direct examination, it is called cross-examination.

c. Redirect Examination

The initial examiner may elect to requestion the witness on the points covered by the cross-examination. This is called redirect examination.

2. Exhibits

Exhibits properly presented to the court and admitted into evidence will be considered by the judge or jury deciding the case. Because the admission of exhibits is determined by the judge, it is important for a *pro se* litigant to comply with the Federal Rules of Evidence concerning the proper admission of exhibits.

E. CLOSING ARGUMENTS

The purpose of the closing argument is to allow each side to summarize the evidence presented, to explain how the evidence is relevant to the issues in the case, and to tell the jury for whom they should return a verdict based on all the evidence they have heard at trial. The closing argument can reiterate crucial testimony that was presented and can highlight why the plaintiff's or defendant's version of the event should or should not be believed. In a closing argument, a party is not permitted to include personal opinions about the facts or the evidence and must be certain not to inadvertently do so. The parties must make their arguments based on facts actually presented in evidence during the trial and reasonable conclusions that can be drawn from those facts. The defendant shall deliver the first closing argument. The plaintiff argues last.

F. CHARGE TO THE JURY, DELIBERATIONS, AND VERDICT

After each side has had the opportunity to present testimony and evidence, the judge delivers legal instructions, or a charge, to the jury. The charge explains the law the jury should apply to decide the case. The parties will have an opportunity to discuss the jury instructions with the judge prior to the charge. After the charge is delivered, the jury will

then go to a secure room to conduct its deliberations. Once the jury has reached a verdict, the court will be notified. If a jury is unable to reach a verdict, the judge will declare a mistrial and the case must then be tried again before a new jury.

VII. PROCEEDINGS AFTER TRIAL

A. JUDGMENT

Once all issues in the case have been disposed of, a document entitled "Judgment" shall be entered by the clerk's office and the case will be closed.

B. BILL OF COSTS

The party that ultimately wins a lawsuit may be awarded certain costs of litigation. These costs are assessed by the court and must be paid by the losing party. If the plaintiff wins the case, a Bill of Costs may be filed against the defendant(s). If the plaintiff loses, however, the defendant(s) may file a Bill of Costs against the plaintiff. These costs, which are explained more fully at 28 U.S.C. § 1920, include expenses such as deposition costs, money for printing, witness fees, and costs incurred for summonses and subpoenas. Even if the plaintiff was granted leave to file *in forma pauperis*, costs may be assessed if the defendant prevails.

A Bill of Costs Form (available in the clerk's office) must be filed with the clerk within twenty (20) days after the time for appeal has expired. A copy must be served on the opposing attorney or *pro se* party. The Bill of Costs must be supported by a memorandum of law and must be verified by oath stating that the items are correct, the costs claimed are allowable by law, the services have been actually and necessarily performed, and the disbursements have been necessarily incurred in the action or proceeding. An itemization of all costs shall be attached to the Bill of Costs. Objections to a Bill of Costs are due within ten (10) days after service. The Clerk of Court will review these submissions and will issue a taxation of costs. The Clerk's taxation shall be final unless modified on review by a judge on a motion filed within five (5) days after it is issued. The rules and procedures related to Bills of Costs are more fully set forth at 28 U.S.C. § 1920, Federal Rule of Civil Procedure 54, and Local Rule 54.1.

C. APPEAL

If you intend to appeal the decision or verdict of the judge or jury, you should closely review the Federal Rules of Appellate Procedure. These are available for review at the clerk's office, at most public libraries, and at the libraries of most New Hampshire correctional institutions.

If a party believes a jury verdict or decision rendered by the court was incorrect, the appeal usually lies with the United States Court of Appeals for the First Circuit in Boston, Massachusetts. An appeal of a decision is initiated by filing a Notice of Appeal in this court. See Appendix I, Sample Notice of Appeal. The fee for filing a Notice of Appeal is \$255. If the party was originally granted *in forma pauperis* status, the appeal filing fee is waived.

A Notice of Appeal should contain a description of the party or parties taking the appeal, a description of the judgment or order or the part of the order or judgment appealed from, and the name of the court to which the appeal is taken. If more than one party wishes to appeal the decision or verdict, each party must file a separate notice of appeal.

Unless the United States or an officer or agency of the United States is a party to the action, the Notice of Appeal in a civil case must be filed within thirty (30) days from the date of entry of the judgment that is being appealed. If the United States or an officer or agency of the United States is a party to the action, the Notice of Appeal must be filed within sixty (60) days from the date of entry of the judgment. The date of entry signifies the entry of the judgment onto the district court's docket. The date an order or opinion is signed is not necessarily the same day that it will be reduced to a judgment or entered onto the court's docket. The parties should consult Federal Rule of Civil Procedure 58 to determine the date judgment is deemed to be entered in their case.

The appellate court will only consider issues the district court has considered, so it is important to make your argument on an issue to the district court prior to appealing the issue. Upon receipt of the Notice of Appeal, the appellate court will notify the parties of any orders issued or schedules set in the case.

APPENDIX A, GLOSSARY OF TERMS

ADMISSIBLE	Evidence that can be legally and properly introduced in a civil or criminal trial or other hearing before the Court.
AFFIDAVIT	A voluntary written or printed declaration of facts, confirmed by oath of the party making it before a person with authority to administer the oath.
ALTERNATIVE DISPUTE RESOLUTION (ADR)	Settling a dispute without a full, formal trial. Methods include mediation, arbitration, and settlement, among others.
ANSWER	A document filed by a defendant in response to the complaint.
ANSWERS TO INTERROGATORIES	A formal written statement by a party to a lawsuit which answers each question or interrogatory asked by the other party. These answers must be acknowledged before a notary public or other person authorized to take acknowledgments.
APPEAL	A proceeding brought to a higher court to review a lower court decision.
BENCH TRIAL	A trial without a jury in which a judge decides the facts.
CAPTION	The heading or introductory part of a pleading.
CAUSE OF ACTION	The fact or facts which give a person a right to relief in court.
CERTIFICATE OF SERVICE	A statement that a copy of the filed document was delivered to the other parties or their counsel including the date and manner of delivery. A certificate of service is required for every pleading subsequent to the original complaint. The certificate must be signed by the person delivering the document.
CHALLENGE FOR CAUSE	A request from a party to a judge that a certain prospective juror not be allowed to be a member of a jury because of specified causes or reasons.
CHAMBERS	A judge's private office.
CHARGE TO THE JURY	The judge's instructions to the jury concerning the law that applies to the facts of the case the jury is to decide.

CIRCUMSTANTIAL EVIDENCE	All evidence that is not direct evidence. Circumstantial evidence is evidence that does not explicitly place facts in evidence, but provides information to the fact finder from which an inference or inferences can be drawn.
CLOSING ARGUMENT	The statement made to the finder of fact, by counsel or <i>pro se</i> party, made after all parties have concluded their presentation of evidence in a trial.
COMPLAINT	The legal document that a plaintiff files with the Clerk of Court to initiate a lawsuit. It contains a statement of the claim(s) of the plaintiff, including the legal and factual grounds for relief, and identifies each defendant.
COUNSEL	An attorney at law hired or appointed to assist his or her client with advice and pleads for him/her orally and in writing before the court.
COUNTERCLAIM	A claim made by the defendant in a civil lawsuit against the plaintiff. In essence, a counter lawsuit within a lawsuit.
COURT COSTS	The expenses of prosecuting or defending a lawsuit, other than the attorney's fees. Money may be awarded to the successful party (and may be recoverable from the losing party) as reimbursement for court costs.
CROSS CLAIM	A pleading which asserts a claim arising out of the same subject matter as the original complaint against a co-party; that is, one co-defendant cross claims against another co-defendant for contribution for any damages assessed against him.
DAMAGES	Money awarded by a court to a person injured by the unlawful act or negligence of another person.
DEFAULT	Failure of the defendant to appear and answer the summons and complaint.
DEFENDANT	The party that is being sued.
DEPOSITION	Testimony of a witness or a party taken under oath outside the courtroom.

DIRECT EVIDENCE	Testimony or other information offered by a witness who saw acts done, heard words spoken, or otherwise possess actual knowledge of a fact directly bearing on the case in controversy.
DIRECTED VERDICT	In a case in which the plaintiff has failed to present on the facts of the case proper evidence for jury consideration, the trial judge may order the entry of a verdict without allowing the jury to consider it.
DISCOVERY	The term refers to the information relevant to the case which is exchanged between the parties. Rules 26 through 37 of the Federal Rules of Civil Procedure govern discovery in a civil case.
DISPOSITIVE MOTION	A motion which, if granted, would dispose of a certain portion (a claim, for example) of a case or the whole case.
EVIDENCE	Information presented in testimony or in documents that is used to persuade the judge or jury serving as the fact finder to decide the case for one side or the other.
<i>EX PARTE</i>	Something requested or done on behalf of or at the request of one party only, without notice to the opposing party.
HUNG JURY	A jury whose members cannot agree upon a verdict.
<i>IN FORMA PAUPERIS</i>	The status of a person allowed to proceed before the court despite being able to pay the costs of filing a complaint or other costs associated with a lawsuit.
INADMISSIBLE	That which, under the rules of evidence, cannot be admitted or received as evidence at trial.
INDIGENT	Needy or impoverished. A defendant who can demonstrate indigence to the court may qualify for the waiver of some or all of the filing fee and other costs of litigation.
INTERROGATORIES	A set or series of written questions propounded to a party, witness, or other person having information or interest in a case; a discovery device.
JUDGMENT	The official and authentic decision of a court adjudicating with finality the respective rights and claims of the parties to a suit. Also, a document summarizing all of the actions or proceedings which disposed of certain or all claims in a case.

JURISDICTION	The power or authority of a court to hear and try a case; the geographic area in which a court has power or the types of cases it has power to hear.
JURY	A panel of people selected according to law and sworn to try a question of fact in the court.
LAW	The combination of rules and principles of conduct promulgated by legislative authority, derived from court decisions and established by local custom.
LITIGANT	A party to a lawsuit.
MEDIATION	A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps them agree on a settlement.
MISTRIAL	An invalid trial, caused by fundamental error.
MOTION	A request made to the court by any party for the purpose of obtaining a ruling or order directing some act to be done.
MOTION <i>IN LIMINE</i>	A motion requesting that information which might be prejudicial or otherwise inappropriate to be received in evidence not be allowed to be heard in a case, or requesting special treatment for such information.
OATH	A solemn pledge made under a sense of responsibility in attestation of the truth of a statement or in verification of a statement made.
OBJECTION	The exception taken to some motion, statement or procedure. An objection is ruled upon by a judge.
OPENING STATEMENT	The initial statement made by each party in a trial outlining the facts each expects the evidence to establish during the trial.
ORDER	A directive issued by a judicial officer or clerk clarifying or establishing the status of an issue before the Court or instructing the plaintiff or defendant to do something, or granting or denying a motion.
PEREMPTORY CHALLENGE	Request by a party, not supported by reason or cause, that a certain prospective juror not be allowed to sit as a member of the jury.

PERJURY	The criminal offense of making a false statement under oath.
PLAINTIFF	A person who is filing a civil complaint.
POLLING THE JURY	The act, after a jury verdict has been announced, of asking jurors individually whether they agree with the verdict.
PREPONDERANCE OF THE EVIDENCE	Greater weight of the evidence, the common standard of proof in civil cases.
<i>PRO SE</i>	The status of a party to a lawsuit who is not represented by counsel and who is representing themselves in court.
PUNITIVE DAMAGES	Money award given to punish the defendant or wrongdoer.
REMAND	To send a dispute back to the court where it was originally heard.
REMOVAL	The transfer of a state case to federal court for trial.
REQUEST FOR ADMISSION	Written statements of facts concerning a case that are submitted to an adverse party which must be admitted or denied; a discovery device.
REQUEST FOR PRODUCTION OF DOCUMENTS	A direction or command served upon another party for production of specified documents for review with respect to a suit; a discovery device.
SEQUESTRATION OF WITNESSES	An order keeping all witnesses (except plaintiff and defendant) out of the courtroom except for their time on the stand and cautioning them not to discuss their testimony with other witnesses.
SETTLEMENT	An agreement between the parties which disposes of a lawsuit.
SIDEBAR	A conference between the judge and parties, usually in the courtroom, out of the hearing of the jury and spectators.
STATUTE OF LIMITATIONS	A law that limits the right of a plaintiff to file an action to a specified time period after the occurrence during which the injured party has the right to sue.
STIPULATION	An agreement between the parties involved in a suit regulating matters incidental to trial.

SUMMARY JUDGMENT	A judgment given without a trial on an issue in a case or on an entire case on the basis of facts not in dispute, as outlined by pleadings, affidavits, and exhibits presented for the record entitling one party to judgment as a matter of law.
SUMMONS	A directive of the court, directed to the defendant, which informs the defendant that an action has been filed against him/her and an answer is required.
TESTIMONY	The evidence given by a witness under oath. It does not include evidence from documents and other physical evidence.
THIRD-PARTY COMPLAINT	A petition filed by a defendant against a third party (not already a party to the suit) which alleges that the third party is liable for all or part of the damages plaintiff seeks or may win from defendant.
TRANSCRIPT	A written, word-for-word record of what was said. Usually refers to a record of a trial, hearing, deposition, or other proceeding that has been transcribed from a recording or stenographic notes.
TRIAL	An adversarial examination of issues between parties to an action.
UNITED STATES COURT OF APPEALS	Courts that hear appeals from federal district courts, bankruptcy courts, and tax courts.
UNITED STATES MAGISTRATE JUDGE	Given authority by 28 U.S.C. § 636, the Magistrate Judge hears all preliminary criminal matters, but does not conduct felony trials, and hears any pretrial civil matters referred by the district court. If all parties consent, criminal misdemeanor and civil trials can be heard by the Magistrate Judge.
VERDICT	A conclusion, as to fact or law, that forms the basis for the court's judgment.
VOIR DIRE	The preliminary examination made in court of a witness or juror to determine qualifications or interest in a matter.
WITH PREJUDICE	A declaration which dismisses all rights. A judgment barring the right to bring or maintain an action on the same claim or cause.

**WITHOUT
PREJUDICE**

A declaration that no rights or privileges of the party concerned are waived or lost. In a dismissal these words maintain the right to bring a subsequent suit on the same claim.

WRIT OF EXECUTION

An order of the court showing debt of one party to another and commanding the court officer to take property in satisfaction of the debt.

APPENDIX B, TIME COMPUTATION

UNITED STATES DISTRICT COURT DISTRICT OF NEW HAMPSHIRE

January 1, 2003

TIME COMPUTATION

REFERENCE RULES		
Fed. R. Civ. P. 6(a) and (e) LR 6.1 and 7.1(b)	Fed. R. Crim. P. 45(a) and (c) LCrR 12.1(d) and 45.1 Fed.R.Crim.P. 49	Fed. R. Civ. P. 5(b)

GENERAL INFORMATION	
ALL TIME PERIODS	Exclude first day. Include last day, unless it is a Saturday, Sunday, or a legal holiday, or a day when the Clerk's Office is inaccessible.
IF TIME ALLOWED IS LESS THAN 11 DAYS	Exclude intermediate Saturdays, Sundays, and legal holidays
ADDITIONAL TIME AFTER SERVICE BY MAIL, LEAVING WITH CLERK, AND OTHER MEANS TO WHICH PARTY CONSENTS IN WRITING	Add three (3) calendar days
WHEN SERVICE IS COMPLETE	Service by mail is complete when mailed. Service by electronic means is complete on transmission. Service by other means is complete upon delivery.

MOTION RESPONSE TIMES	
The Clerk's Office calculates response deadlines for motions as follows:	
SUMMARY JUDGMENT MOTIONS	If motion was served pursuant to Fed. R. Civ. P. 5(b)(2)(B), (C), or (D): <div style="text-align: right;">33 calendar days after service</div> If motion was served pursuant to Fed. R. Civ. P. 5(b)(2)(A): <div style="text-align: right;">30 calendar days after service</div>
OTHER MOTIONS	If motion was served pursuant to Fed. R. Civ. P. 5(b)(2)(B), (C), or (D): <div style="text-align: right;">10 business days after service plus 3 calendar days</div> If motion was served pursuant to Fed. R. Civ. P. 5(b)(2)(A): <div style="text-align: right;">10 business days after service</div>

APPENDIX C, FILING REQUIREMENTS

1/1/01

U.S. DISTRICT COURT MOTION/OBJECTIONS/MEMORANDUM/AFFIDAVITS FILING REQUIREMENTS

<i>MOTION FILING REQUIREMENTS - BY GROUP</i>	
* * * * ALL MOTIONS * * * *	
Shall be considered only if submitted in separate filing with the word "motion" in the title.	7.1(a)(1)
Shall contain a certificate of service that states the name and address of the attorney or party served, the manner of service, and the date of service.	5.1(d)
Motion which requires consideration of facts not in the record shall be accompanied by affidavits.	7.1(a)(2)
Shall have memorandum with citations or a statement explaining why a memorandum is unnecessary.	7.1(a)(2)
If oral argument is requested, a written statement should be included outlining reasons why such argument may provide assistance to the court.	7.1(d)
* * * AND IF IT IS A NONDISPOSITIVE MOTION * * *	
Certification must be included stating good faith attempt to obtain concurrence (all parties).	7.1(c)
If concurrence has been obtained, motion shall contain "assented to" in title.	7.1(c)
* * * AND IF IT IS A MOTION TO/FOR * * *	
Admission Pro Hac Vice. Must be accompanied by a \$50 admission fee and an affidavit (per attorney).	83.2(b)
Amend. Must have the original proposed amendment attached. Amendment shall reproduce the entire filing as amended. Motion/memo must contain two required elements as listed.	15.1
Class Action Settlement. Must have proposed notice order, samples of proposed notices, and proposed order attached.	23.1
Compel/for Protective Order. Must be in the format outlined or have attached a copy of the discovery document (only that portion which is objected to or is the subject of the motion).	37.1
Consolidate. Must list each case in the caption.	42.1(d)
Continue Trial. Civil. Shall contain a certification that the party on behalf of whom the motion was filed has been notified of the request.	7.2(d)
Criminal. Must be accompanied by waiver of speedy trial signed by the defendant.	LCrR 12.1(c)
Default Judgment. Shall contain statement of mailing to last known address of the defaulted party and, if known, to the attorney thought to represent that party.	55.1(b)
Departure. Must contain certain elements; copy to Probation.	LCrR 32.1(i)
Discovery/Criminal. No motion seeking routine discovery shall be filed unless the opposing party has failed to comply with a written request for the discovery sought.	LCrR 16.3
Excess Fees/Criminal. If claim exceeds statutory limit, motion must be filed requesting approval of excess and outlining the reasons why such excess is justified.	LCrR 44.1(c)
Extend Time. Shall state if the requested extension would result in the continuance of any hearing, conference, or trial, and state the proposed extended date.	7.2(a)

* * * IF IT IS A MOTION TO/FOR (CONTINUED) * * *	
Minor's Settlement. Must be signed by minor's parent, next friend, or guardian. Must contain information required by NH Superior Court Rule 111; more if minor is out-of-state resident.	17.1
Proceed In Forma Pauperis. Shall be accompanied by financial affidavit. If institutionalized, shall also submit a trust account statement.	4.2
Registry Funds. Proposed order required for investment; separate filing for withdrawal.	67.2(b), 67.3
Sentencing. Copies of sentencing motions shall be provided to all parties and the probation office. LCrR 32.1(a)	
Temporary Restraining Order, Preliminary Injunction. Shall be accompanied by a proposed order.	65.1
Vacate Fine. Will not be considered after the fine is paid.	1.3
Withdraw Appearance. Civil. Required if certain conditions exist. Must include client's last known address. Criminal. Must obtain leave of court to withdraw appearance.	83.6(d) LCrR 44.3
* * * AND IF IT IS A CASE BY DESIGNATION FROM RHODE ISLAND * * *	
Caption must reflect both case numbers. Certificate of service must include Clerk of the District Court, District of RI.	77.5

OBJECTION - FILING REQUIREMENTS	
Objection which requires consideration of facts not in the record shall be accompanied by affidavit(s).	7.1(a)(2)
Shall have memorandum with citations or a statement explaining why a memorandum is unnecessary.	7.1(a)(2)
If oral argument is requested, a written statement should be included outlining reasons why such argument may provide assistance to the court.	7.1(d)

MEMORANDUM - FILING REQUIREMENTS	
Memorandum shall not exceed stated page limitations (15 pages nondispositive; 25 pages dispositive).	7.1(a)(3)
Reply or Surreply Memorandum. Page and time limits.	7.1(e)
If supporting/opposing Summary Judgment, shall incorporate short and concise statement of material facts, supported by appropriate record citations.	7.2(b)(1) & (2)
If supporting motion to amend, memorandum or motion must contain two required elements.	15.1(a)

AFFIDAVIT - FILING REQUIREMENTS	
Affidavits must identify the filing they oppose/support by indicating the filing's title.	5.1(f)
Affidavits shall be included as exhibits in appendix or attachment.	5.1(a)(2)
Objection which requires consideration of facts not in the record shall be accompanied by affidavit(s).	7.1(a)(2)

APPENDIX D, SAMPLE COMPLAINT FORMAT

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Name of Plaintiff(s)

vs.

CIVIL ACTION NO.
(Clerk's Office to Complete)

Name of Defendant(s)

COMPLAINT

(Indicate if Jury Demand is Requested)

1. Paragraph - Name and Address of Plaintiff. Add additional separately numbered paragraphs, one for each plaintiff, if there is more than one plaintiff.
2. Paragraph - Name and Address of Defendant. Add additional separately numbered paragraphs, one for each defendant, if there is more than one defendant.
3. Paragraph - One numbered paragraph containing the allegation of jurisdiction, that is, under what legal authority the case is filed in this court rather than in another court.
4. Paragraph - Allegation(s)/claim(s) against the defendant(s). Write one separate, numbered paragraph for each allegation/claim.

The final closing paragraph should contain a statement of the relief being sought: that is, what the plaintiff wants the court to do to correct the situation. (This paragraph should not be numbered.) If different types of relief (for example, money damages, reinstatement to a job, an order directing the defendant to do or stop doing something, etc.) are sought, they should be in separate paragraphs, preceded by capital letters A., B., C., etc.

Date: _____

Signature: _____

Name: _____
(Typed or Printed)

Address: _____

Telephone No. _____

APPENDIX E, USDC-11, INSTRUCTIONS & SAMPLE COMPLAINT (PERSON IN CUSTODY)

Instructions for Filing a Complaint by a Prisoner Under the Civil Rights Act, 42 U.S.C. § 1983

I. 42 U.S.C. § 1983

You may file an action under 42 U.S.C. § 1983 to challenge federal constitutional or statutory violations by state actors. Lawsuits challenging the conditions of your confinement are generally filed under this statute. A § 1983 action may not be used to challenge the length of your sentence or the validity of your conviction.

II. Filing a § 1983 Action

To file a § 1983 action, you must submit: (1) an original complaint and (2) a filing fee of \$250.00 (by money order or cashier's check made payable to "Clerk, U.S. District Court") or an original Prisoner's *In Forma Pauperis* Application.

This packet includes a complaint form and a Prisoner's *In Forma Pauperis* Application. When these forms are fully completed, mail the originals to: Office of the Clerk of Court, United States District Court for the District of New Hampshire, Warren B. Rudman United States Courthouse, 55 Pleasant Street, Room 110, Concord, NH 03301-3941.

III. Filing Fees

The filing fee for each Plaintiff in a § 1983 action is \$250.00, to be paid at the time of filing. If you are unable to pay the full filing fee at this time, you may apply to proceed *in forma pauperis*, using the Prisoner's *In Forma Pauperis* Application in this packet. You must fully complete the application and sign and declare under penalty of perjury that the facts stated therein are true and correct.

If the complaint contains more than one inmate plaintiff, each plaintiff must submit a separate Prisoner's *In Forma Pauperis* Application or filing fee. Inmate plaintiffs must use the Prisoner's *In Forma Pauperis* Application provided with this packet and not any other version.

IV. Complaint Form

The Complaint must be typewritten or legibly handwritten and you must sign and declare under penalty of perjury that the facts stated in the complaint are true and correct. Each plaintiff must sign the complaint.

V. Pro Se Litigation - Individual and Class Action Lawsuits

As a *pro se* litigant, you are representing only yourself and presenting only your claims and defenses. Under the law, you cannot speak for another person, or other entity. You may not represent a class of people in a class action lawsuit. See Local Rule 83.2(d) & 83.6(b). A *pro se* litigant may not authorize another person who is not a member of the bar of this court to appear on his or her behalf. Each *pro se* litigant must sign the complaint and all additional pleadings filed with the court on his or her behalf.

In order to assist *pro se* litigants, the Court has compiled the Pro Se Litigant Guide, which should be available in the libraries of all New Hampshire correctional facilities. If your facility does not have a copy, the Court will mail you a copy upon request.

VI. Exhaustion of Administrative Remedies

Under 42 U.S.C. § 1997e, you are required to exhaust your administrative remedies before filing a § 1983 action regarding conditions of confinement and other issues relating to prison life. Failure to completely exhaust administrative prison grievance procedures prior to filing your complaint will result in the dismissal of your suit in its entirety.

VII. Change of Address After Complaint is Filed

You will be notified as soon as the court issues any order in your case. It is your responsibility to keep the court informed of any changes of address to ensure you receive court orders. Failure to so do may result in dismissal of your action.

VIII. Copying Requests

Please note that the Office of the Clerk of Court charges fifty cents (.50¢) per page for all copy requests. Thus, we recommend that you keep copies of all documents submitted to the court for your own records.

United States District Court
District of New Hampshire

Plaintiff

v.

Civil Action No. _____
(To be provided by Clerk's Office)

Defendant(s)

TO BE COMPLETED BY PLAINTIFF

(Check One Only)

() DEMAND FOR JURY TRIAL

() NO JURY TRIAL DEMAND

COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C § 1983

I. Parties

A. Please provide the following information for each plaintiff:

1. Name _____
(Last) (First) (Initial)

2. Place of Detention _____

3. Institutional Address _____

4. Are you incarcerated pursuant to a pretrial detention order or are you a sentenced inmate?

☐ Pretrial Detention Order

☐ Sentenced Inmate

5. Date pretrial detention order was issued or sentence imposed _____

B. Please provide the full name, current title and address known for each defendant:

1. Name _____
(Last) (First) (Initial)

2. Title _____

3. Address _____

(If the complaint is being made against more than one defendant, please attach additional sheets listing the above information and allegations as follows.)

II. Statement of Claim

For each claim, please include the following information on attached sheets:

1. State which of your federal constitutional or federal statutory rights have been violated.
2. State which defendant(s) have violated that particular right for each allegation.
3. State, with specificity, the facts and circumstances that gave rise to the violations or deprivations alleged.
4. State the harm or damage that resulted from the alleged violation or deprivation.

Allegation 1: _____

Supporting *Facts*: _____

Allegation 2: _____

Supporting *Facts*: _____

Allegation 3: _____

Supporting *Facts*: _____

S A M P L E

(If more space is needed to explain any allegation or to list additional facts, attach additional pages)

III. Relief

You must request specific relief in your Complaint. State briefly exactly what you want the court to do for you (attach additional pages if necessary):

Date: _____

Signature of Plaintiff

State of New Hampshire]
] ss
County of _____]

_____, being first duly sworn, upon oath, presents that (s)he has read and subscribed to the foregoing complaint, and states that the information contained therein is true and correct to the best of his/her knowledge and belief.

Subscribed and sworn before me this _____ day of _____, 20____.

Notary Public/Justice of the Peace

S A M D T F
O R

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATE

SIGNATURE

JURY TRIAL DEMAND

I demand a jury trial for all claims for which a jury trial is allowed.

YES (___) NO (___)
(check one only)

Date: _____

Signature of Plaintiff

APPENDIX F, SAMPLE SUMMONS FORM

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

District of New Hampshire

Harry Smith

V.

SUMMONS IN A CIVIL CASE

John Jones
Maryanne Jones
Ann Jones
Cathy Jones

CASE NUMBER:

TO: (Name and address of

John Jones, 55 Pleasant St, Concord,
NH
Maryanne Jones, 55 Pleasant St,
Concord, NH
Ann Jones, 55 Pleasant St, Concord,
NH
Cathy Jones, 55 Pleasant St, Concord,
NH

O
R

John Jones
55 Pleasant St
Concord, NH

(PREPARE ONE SUMMONS FOR
EACH DEFENDANT SHOWING INDIVIDUAL
NAME & ADDRESS)

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY

Harry Smith, Pro Se
234 Piner Avenue
Townline, NH 00000

an answer to the complaint which is served on you _____ 20 _____ days after
of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will
be taken against you for the relief demanded in the complaint. Any answer that you serve on the
parties to this action must be filed with the Clerk of this Court within a reasonable period of time after
service.

ADD AN "ALSO ATTACHED:" TO LIST HERE ANYTHING ELSE THAT WILL BE SERVED
WITH THE COMPLAINT

James R. Starr

CLERK

December 30, 2002

DATE

Sally Brown

(By) DEPUTY CLERK

APPENDIX G, SAMPLE MOTION FORM

**UNITED STATES DISTRICT COURT - NH
SOME SUGGESTIONS FOR THE PERFECT MOTION FORMAT**

1/1/01

[USUAL CASE CAPTION. MAY USE "1ST PLAINTIFF/1ST DEFENDANT, ET AL." INCLUDE JUDGE'S INITIAL(S) AFTER CASE NUMBER. FOR CRIMINAL, USE THE SPECIFIC DEFENDANT'S NAME AND BE SURE TO INCLUDE THE DEFENDANT # IN THE CASE NUMBER, e.g. 95-cr-1-1-JD.]

[SOME SAMPLE TITLES]

(PARTY'S) ASSENTED-TO MOTION TO/FOR (RELIEF)

(PARTY'S) MOTION TO/FOR (RELIEF) WITH MEMO

(PARTY'S) MOTION TO EXTEND TIME TO (DATE) TO (RELIEF)

TEXT OF MOTION
PRAYER FOR RELIEF

CONCURRENCE STATEMENT, LR 7.1(c)

Motion is dispositive; no concurrence has been sought.

- O R -

Despite good faith attempts (describe), I have been unable to contact (names), regarding concurrence.

- A N D / O R -

(Name(s)) has been contacted and has no objection to the relief sought.

- A N D / O R -

(Name(s)) has been contacted and will object to the relief sought.

- O R -

As this is an ex parte motion, concurrence was not sought nor a copy sent to opposing counsel.

MEMO STATEMENT, LR 7.1(a)(2)

Due to the nature of the motion, no memorandum is required.

- O R -

Memorandum is attached hereto.

**USE THIS SPACE FOR STATEMENT RE NOTICE TO
CLIENT, IF CIVIL CONTINUANCE, LR 7.2(d)**

I certify that my client, (name), has been notified of the filing of this motion to continue.

**USE THIS SPACE FOR STATEMENT RE WAIVER OF SPEEDY TRIAL,
IF CRIMINAL CONTINUANCE, LCrR 12.1(c)**

A waiver of speedy trial, signed by the defendant, is attached hereto.

CLOSING. Include line for original signature, attorney's name, bar number, address, phone number.
CERTIFICATE OF SERVICE, LR 5.1(d), Fed. R. Civ. P. 5 or Fed. R. Crim. P. 49. Include date and manner of service and what and to whom sent/served. If CRIMINAL involving sentencing or a motion for departure, also send copy to Probation (LCrR 32.1(a) and (i)).

Sample offered for information only. Filings must be on 8 1/2 x 11" paper, font size no smaller than 10 cpi or 12 point, 1" margins, page-numbered bottom center, double spaced (except for quoted material, concurrence/memo statements, certificates of service), stapled but not permanently bound, may be top-punched.

APPENDIX H, SAMPLE OBJECTION FORM

US DISTRICT COURT - NH

1/1/00

SOME SUGGESTIONS FOR THE PERFECT OBJECTION FORMAT

[USUAL CASE CAPTION. MAY USE "1ST PLAINTIFF/DEFENDANT, ET AL."
INCLUDE JUDGE'S INITIAL(S) AFTER CASE NUMBER. FOR CRIMINAL, USE THE
SPECIFIC DEFENDANT'S NAME AND BE SURE TO INCLUDE THE DEFENDANT # IN THE
CASE NUMBER, e.g. 95-cr-1-1-JD.]

SAMPLE
[SOME SAMPLE TITLES]

(PARTY'S) OBJECTION TO (PARTY'S) MOTION TO/FOR (RELIEF)
(PARTY'S) OBJECTION TO (PARTY'S) MOTION TO/FOR (RELIEF) WITH MEMO

TEXT OF OBJECTION

CONCLUSION

MEMO STATEMENT, LR 7.1(a)(2)

Memorandum is attached hereto.

- O R -

Due to the nature of the objection, no memorandum is required.

CLOSING. Include line for original signature, attorney's name,
bar number, address, phone number.

CERTIFICATE OF SERVICE, LR 5.1(d), Fed. R. Civ. P. 5 or Fed. R. Crim. P. 49. Include
date and manner of service and what and to whom sent/served. If **CRIMINAL** involving
sentencing, also send copy to Probation (LCrR 32.1(a) and (i)).

Sample offered for information only. Filings must be on 8 1/2 x 11" paper, font size no smaller than 10 cpi
or 12 point, 1" margins, page-numbered bottom center, double spaced (except for quoted material, memo
statements, certificates of service), stapled but not permanently bound, may be top-punched.

APPENDIX I, SAMPLE NOTICE OF APPEAL

(Form 1, Appendix of Forms, Federal Rules of Appellate Procedure)

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Plaintiff(s)

vs.

**CIVIL ACTION NO. (INCLUDING
JUDGE'S INITIALS)**

Defendant(s)

SAMPLE
NOTICE OF APPEAL

Notice is hereby given that [name here all parties taking the appeal], (plaintiffs) (defendants) in the above named case,¹ hereby appeal to the United States Court of Appeals for the First Circuit (from the final judgment) (from an order (describing it)) entered in this action on the ____ day of _____, 20__.

Date: _____

Signature: _____

Name: _____
(Typed or Printed)

Address: _____

Telephone No. _____

I certify that a copy of the foregoing NOTICE OF APPEAL was mailed/hand delivered to (name of defendant(s) or counsel for defendant(s)) at (address) on (date).

Original Signature, pro se
Typed Name, etc.

1. See Fed. R. App. P. 3(c) for permissible ways of identifying appellants.